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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT TACOMA

11 LENIER AYERS,

12 Plaintiff,

13 v.

14 HENRY RICHARDS, *et al.*,

15 Defendants.
16

Case No. C08-5390 BHS/KLS

ORDER TO SHOW CAUSE

17 This matter comes before the Court on Plaintiff's application to proceed *in forma pauperis* and a
18 civil rights complaint under 42 U.S.C. § 1983. (Dkt. # 1). To file a complaint and initiate legal
19 proceedings plaintiff must pay a filing fee of \$350.00 or file a proper application to proceed *in forma*
20 *pauperis*.

21 The court may permit indigent litigants to proceed *in forma pauperis* upon completion of a proper
22 affidavit of indigency. *See* 28 U.S.C. § 1915(a). However, the court has broad discretion in denying an
23 application to proceed *in forma pauperis*. *Weller v. Dickson*, 314 F.2d 598 (9th Cir. 1963), *cert. denied*,
24 375 U.S. 845 (1963). Several district courts have ruled that denial of *in forma pauperis* status is not
25 unreasonable when a prisoner is able to pay the initial expenses required to commence a lawsuit. *See*
26 *Temple v. Ellerthorpe*, 586 F.Supp. 848 (D.R.I. 1984); *Braden v. Estelle*, 428 F.Supp. 595 (S.D.Tex.
27 1977); *U.S. ex rel. Irons v. Com. of Pa.*, 407 F.Supp. 746 (M.D.Pa. 1976); *Shimabuku v. Britton*, 357
28 F.Supp. 825 (D.Kan. 1973), *aff'd*, 503 F.2d 38 (10th Cir. 1974); *Ward v. Werner*, 61 F.R.D. 639 (M.D.Pa.

1 1974).

2 In his application to proceed *in forma pauperis* at paragraph 3(f), Mr. Ayers declares that he has
3 received no funds from any other source in the past 12 months. (Dkt. # 3, ¶ 3(f)). The court is aware,
4 however, that in *Ayers v. Richards*, defendants in that case settled their claims with Mr. Ayers for the sum
5 of \$12,000.00 deposited into the court registry on October 21, 2007. (Case No. C06-5264 RBL/KLS,
6 Dkts. # 53 and 55). The Court is also in receipt of Plaintiff's "Clarification on Motion for Leave to
7 Proceed In Forma Pauperis" (Dkt. # 7), in which Plaintiff explains that he was mistaken in the dates when
8 he completed his application. However, Plaintiff does not explain why the settlement funds should not be
9 taken into account.

10 Plaintiff is ordered to show cause why the settlement proceeds should not be taken into
11 consideration by the Court in determining whether Plaintiff is eligible to proceed *in forma pauperis* in this
12 matter.

13 Accordingly, the Court **ORDERS** the following:

- 14 (1) Plaintiff shall respond to the court's inquiry regarding his receipt of settlement proceeds on
15 or before **August 8, 2008**.
16 (2) The Clerk is directed to send a copy of this Order to Plaintiff.

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18 DATED this 25th day of July, 2008.

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21 Karen L. Strombom
22 United States Magistrate Judge
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